



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3794

Introduced 2/25/2009, by Rep. Julie Hamos

SYNOPSIS AS INTRODUCED:

735 ILCS 5/Art. VIII Pt. 28 heading new
735 ILCS 5/8-2801 new
740 ILCS 22/212 rep.

Amends the Code of Civil Procedure. Provides that prior sexual activity or reputation is not admissible as evidence except if, otherwise admissible, evidence of specific instances of sexual behavior by the victim (1) to prove that a person other than the accused was the source of semen, injury, or other physical evidence or (2) with respect to the accused to prove the victim's consent. Provides that a party intending to offer this type of evidence shall file a motion 14 days before trial and the court shall conduct a hearing in camera to hear from the victim and the parties, with the hearing record sealed. Repeals provisions of the Civil No Contact Order Act concerning the hearsay exception in proceedings for a no contact order and prosecutions for violating a no-contact order as to the prior sexual activity or the reputation of the petitioner and limits on that exception.

LRB096 11666 AJO 22274 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by adding
5 Part 28 to Article VIII as follows:

6 (735 ILCS 5/Art. VIII Pt. 28 heading new)

7 PART 28. PRIOR SEXUAL ACTIVITY OR REPUTATION AS EVIDENCE

8 (735 ILCS 5/8-2801 new)

9 Sec. 8-2801. Admissibility of evidence; prior sexual
10 activity or reputation.

11 (a) Evidence generally inadmissible. The following
12 evidence is not admissible in any civil proceeding except as
13 provided in subsections (b) and (c):

14 (1) evidence offered to prove that any victim engaged
15 in other sexual behavior; or

16 (2) evidence offered to prove any victim's sexual
17 predisposition.

18 (b) Exceptions.

19 (1) In a civil case, the following evidence is
20 admissible, if otherwise admissible under this Act:

21 (A) evidence of specific instances of sexual
22 behavior by the victim offered to prove that a person

1 other than the accused was the source of semen, injury,
2 or other physical evidence; and

3 (B) evidence of specific instances of sexual
4 behavior by the victim with respect to the person
5 accused of the sexual misconduct offered by the accused
6 to prove consent by the victim.

7 (c) Procedure to determine admissibility.

8 (1) A party intending to offer evidence under
9 subsection (b) must:

10 (A) file a written motion at least 14 days before
11 trial specifically describing the evidence and stating
12 the purpose for which it is offered unless the court,
13 for good cause requires a different time for filing or
14 permits filing during trial; and

15 (B) serve the motion on all parties and notify the
16 victim or, when appropriate, the victim's guardian or
17 representative.

18 (2) Before admitting evidence under this Section the
19 court must conduct a hearing in camera and afford the
20 victim and parties a right to attend and be heard. The
21 motion, related papers, and the record of the hearing must
22 be sealed and remain under seal unless the court orders
23 otherwise.

24 (740 ILCS 22/212 rep.)

25 Section 10. The Civil No Contact Order Act is amended by

1 repealing Section 212.